

## TEXT OF EMERGENCY REGULATIONS

### TITLE 3. CALIFORNIA CODE OF REGULATIONS DIVISION 6. PESTICIDES AND PEST CONTROL OPERATIONS CHAPTER 2. PESTICIDE SUBCHAPTER 1. PESTICIDE REGISTRATION

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Current wording is indicated by regular type.  
Proposed deletions are indicated by ~~strikeout~~.  
Proposed additions are indicated by underline.

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#### ARTICLE 2. REGISTRATION REQUIREMENTS

Amend subsection 6170(c) and adopt subsection 6170(d) to read:

##### **6170. Application.**

(a) Each application for registration of a pesticide product shall be made on the Application for Pesticide Registration Form 39-030 (Rev. 9/03), prescribed by the director and described in section 6170.5. The application is incomplete and may be returned by the Director if the application is not accompanied by the fee required by section 6148, six copies of the product labeling, and the data required to be submitted by sections 6159, 6170, 6172, 6176-6179, 6180(a), 6181-6192, and 6200 when applicable to support registration of the product. All data submitted by the applicant to the U.S. EPA in support of federal registration shall be submitted and all studies shall be submitted in full. The product labeling should be printer's proof, final labels, or legible photocopies, thereof. If typescript labels are submitted with the application, printer's proof, final labels, or legible photocopies, thereof, must be submitted before a Certificate of Registration (License) for the product will be issued. If the label has been approved by a federal agency, proof of such approval shall be submitted with the application.

(b) An application to amend the labeling (including a special local needs labeling) of a pesticide product is incomplete and may be returned by the Director if the application is not accompanied by the fee required by 6148.5, six copies of the labeling and the data required to be submitted by sections 6159, 6170, 6172, 6176-6179, 6180(a), 6181-6192, and 6200 when applicable to the amendment. The application to amend the labeling shall be accompanied by all data submitted by the applicant to the U.S. EPA in support of the federal amended labeling and all studies shall be submitted in full. The product labeling should be printer's proof, final labels or legible photocopies; thereof. If typescript labels are submitted, printer's proof, final labels or legible photocopies; thereof, must be submitted before the amended label will be accepted for use. If the amended labeling has been approved by a federal agency, proof of such approval shall be submitted with the amendment application.

(c) In lieu of submitting data pursuant to subsections (a) and (b) of this section, ~~the registrant~~ an applicant for registration or amendment may reference appropriate data previously submitted to the ~~d~~Director by the registrant. ~~Data previously submitted to the director may be used by any applicant when an authorization is submitted in writing to the Department, by the owner of that data or a pesticide product(s) previously approved by the Director that would be subject to some or all of the same data requirements as applicable to the applicant's product.~~

(d) If an applicant does not submit or reference its own data to support its application for registration or amendment, it is subject to the requirements imposed under Food and Agricultural Code section 12811.5.

NOTE: Authority cited: Section 12781, Food and Agricultural Code.

Reference: Sections 12811, 12812, 12815 and 12816, Food and Agricultural Code.

Adopt Article 15 to read:

## **ARTICLE 15. DATA COST-SHARING**

Adopt section 6310 to read:

### **6310. Dispute Resolution Proceedings.**

If agreement cannot be reached about the terms and amount of payment required pursuant to Food and Agricultural Code section 12811.5, at any time more than 90 days after the issuance of an irrevocable offer to pay, either the applicant, source, or data owner may initiate or with the consent of all parties, join a binding dispute resolution proceeding under the rules prescribed under Title 29 Code of Federal Regulations, Part 1440, or its successor provision, if any, or other rules to which the applicant and data owner may agree.

(a) To the extent feasible, and upon mutual consent of the parties, the proceeding may be consolidated with any dispute resolution process taking place between the same parties and being conducted pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec 136a et.seq.).

(b) In determining the amount due under this section, the decisionmaker(s) of a dispute resolution proceeding shall consider, among other factors, that the data owner's exclusive right to sell the pesticide resulted in the data owner recovering all or part of the costs of generating the data.

(c) The finding of the decisionmaker(s) in a dispute resolution proceeding shall be final and conclusive, and no official or court shall have power or jurisdiction to review that finding and determination, except for fraud, misrepresentation, or other misconduct by one of the parties to the dispute resolution proceeding or the decisionmaker(s) where there is a verified complaint with supporting affidavits attesting to specific instances of fraud, misrepresentation, or misconduct.

(d) The parties to the dispute resolution proceeding shall share equally in the payment of fees and expenses of the dispute resolution process, except that each party shall bear its legal fees and its expenses.

NOTE: Authority cited: Section 12811.5, Food and Agricultural Code.

Reference: Section 12811.5, Food and Agricultural Code.